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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,469	10/31/2003	Heather Lynn Focht	9081M	2774

27752 7590 09/19/2005

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

OGDEN JR, NECHOLUS

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,469

Applicant(s)

FOCHT ET AL.

Examiner

Necholus Ogden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 6-8-05
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 21 and 40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

Election/Restrictions

1. Applicant's election with traverse of claims 1-40 in the reply filed 6-8-05 is acknowledged. The traversal is on the ground(s) that the examiner has not shown a serious burden for the requirement. This is not found persuasive because the claims are distinct as shown by the separate search status and classification.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 21 and 40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6-8-05.

1. Claims 1-21 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Rattinger et al (5,965,501) or Rattinger et al (6,174,845) is withdrawn in view of applicant's amendment.

Double Patenting

2. Claims 1-21 provisionally rejected under the judicially created doctrine of double patenting over claims 1-23 and 1-22 of copending Application No. 10/837,201 and 10/836,984, respectively is withdrawn in view of applicant's terminal disclaimer.

Response to Arguments

3. Applicant's arguments, filed 6-8-05, with respect to the rejection(s) of claim(s) 1-21 under 102/103 have been fully considered and are persuasive.

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Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of St. Lewis et al (6,306,806).

4. Claims 1-20 and 22-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over St. Lewis et al (6,306,806).

St. Lewis et al disclose a liquid personal cleansing composition comprising a dual chamber dispenser wherein more than two stripes may be dispensed comprising a surfactant stripe having at least one anionic surfactant (col. 2, lines 10-14); a structurant comprising clays, fatty acids and derivatives (col. 4, lines 65-67); electrolytes such as sodium chloride (col. 5, lines 7-11 and col. 6, lines 56-60); and other adjunct materials. St. Lewis et al further teach the inclusion of a benefit stripe that is a water-in-oil emulsion comprising topically active materials such as quaternary ammonium compounds or cationic polymers (col. 6, lines 29-36); and oils such as petrolatum, sunflower seed oil, canola oil and mixtures thereof (col. 7, lines 10-63). Specific examples show surfactant base stripes comprising acyl isethionate, coco monoethanolamide, guar and water; and benefit stripes having petrolatum, salicylic acid, dimethicone and preservatives (see example 9).

St. Lewis et al do not teach with sufficient specificity each of the claimed ingredients. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the ingredients with a reasonable expectation of success to formulate the claimed invention, in the

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absence of a showing to the contrary, because each of the ingredients are taught in a single composition.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholus Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nicholas Ogden
Primary Examiner
Art Unit 1751

No
8-21-05